



2004 - 035

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

December 3, 2003

BILL PRYOR  
ATTORNEY GENERAL

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Honorable J. T. "Jabo" Waggoner  
Member, Alabama State Senate  
One HealthSouth Parkway  
Birmingham, AL 35243

Bingo – Media Bingo – Gambling – Jefferson  
County

There is nothing preventing either the Town of White Hall or Jefferson County from conducting media bingo, provided that the game is kept solely on the premises of the nonprofit organization and is directly and solely operated by the organization. The game may not be broadcast to additional locations.

For the proposed media bingo plan to be legal, a statewide constitutional amendment would need to be passed repealing the requirements found in the county-specific amendments limiting the legality of bingo games to those located on the premises of and under the direct and sole control of the nonprofit organization operating the games in each location.

Dear Senator Waggoner:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

- (1) Is media bingo legal in Jefferson County?
- (2) Is media bingo legal in the Town of White Hall in Lowndes County?

(3) If the answer to Question One is "no", would adding the words "including media bingo" to Amendment 386 make media bingo legal in Jefferson County?

### FACTS AND ANALYSIS

According to your information, a licensed and lawful bingo group is interested in conducting a media bingo game in the Town of White Hall and broadcasting the game to additional locations. The other locations participating in the media bingo would be other legally licensed bingo organizations in other locations within the state. All winners of prizes would be paid by the licensed nonprofit bingo organization conducting the media bingo game in the Town of White Hall.

The game would operate in the following manner. As the licensed "media bingo" game is being conducted, various other lawful bingo locations would participate via video and other media technology. Eventually, a player at one of the locations participating would obtain the winning combination of numbers. The licensed media bingo game organization conducting the game would then award the prize offered for that game to the winner of the game. If the winner of the media bingo game playing in a lawfully established location is in another county in the state, the prize would be paid to the winner by the organization conducting the game in the Town of White Hall.

Amendment 386 to the Constitution of Alabama states as follows:

***The operation of bingo games for prizes or money by nonprofit organizations for charitable or educational purposes shall be legal in Jefferson County*** subject to the provisions of any resolution or ordinance by the county governing body or the governing bodies of the respective cities and towns, within their respective jurisdictions. The said governing bodies shall have the authority to promulgate rules and regulations for the licensing and operation of bingo games, within their respective jurisdictions, provided, however, that said governing bodies must insure compliance with the following provisions:

(a) No person under the age of 19 shall be permitted to play any game or games of bingo, nor shall

any person under the age of 19 be permitted to conduct or assist in the conduct of any game of bingo;

(b) No bingo license shall be issued to any non-profit organization, unless such organization shall have been in existence for at least 24 months immediately prior to the issuance of the license;

(c) ***Bingo games shall be operated only on the premises owned or leased by the nonprofit organization operating the bingo game.*** If the premises is [sic] leased, the rate of rental shall not be based on a percentage of receipts or profits resulting from the operation of bingo games;

(d) No nonprofit organization shall enter into any contract with any individual, firm, association or corporation to have said individual or entity operate bingo games or concessions on behalf of the nonprofit organization, nor shall said nonprofit organization pay consulting fees to any individual or entity for any services performed in relation to the operation or conduct of a bingo game;

(e) ***A nonprofit organization shall not lend its name or allow its identity to be used by any other person or entity in the operating or advertising of a bingo game in which said nonprofit organization is not directly and solely operating said bingo game;***

(f) Prizes given by any nonprofit organization for the playing of bingo games shall not exceed \$1,200.00 in cash or gifts of equivalent value during any bingo session or \$2,400.00 in cash or gifts of equivalent value during any calendar week;

(g) No person or organization, by whatever name or composition thereof, shall take any salary, expense money, or fees as remuneration for services rendered in the operation of any bingo game.

Amendment 732 to the Constitution of Alabama states as follows:

(a) The operation of bingo games, *including media bingo*, for prizes or money by nonprofit organizations, which shall include the Town of White Hall or any agency thereof, for charitable, educational, or other lawful purposes shall be legal in the Town of White Hall that is located in Lowndes County, subject to any resolution or ordinance by the town council. The town council shall have the authority to promulgate rules and regulations for the licensing and operation of bingo games within its jurisdiction provided, however, the town council shall insure compliance pursuant to any ordinance and the following provisions:

(1) No person under the age of 18 years shall be permitted to play any game or games of bingo, nor shall any person under the age of 19 years be permitted to conduct or assist in the operation of any game of bingo.

(2) No bingo license shall be issued to any nonprofit organization, unless the organization shall have been in existence for at least two years immediately prior to the issuance of the permit or license.

(3) *Bingo games shall be operated only on the premises owned or leased by the nonprofit organization operating the bingo game.* If the premises are leased, the rate of rental shall not be based on a percentage of receipts or profits resulting from the operation of bingo games unless such percentage is established by promulgated rules and regulations authorized by the town council.

(4) A nonprofit organization may enter into any contract with any individual, firm, association, or corporation to have the individual or entity operate bingo games or concessions on behalf of the nonprofit organization. No nonprofit organization shall pay consulting fees to any individual or entity for any services performed in relation to the operation or conduct of a bingo game.

***(5) A nonprofit organization shall not lend its name or allow its identity to be used by another person or entity in the operating or advertising of a bingo game in which the nonprofit organization is not directly and solely operating the bingo game.***

(6) Prizes given by any nonprofit organization for the playing of bingo games shall not exceed the cash amount or gifts of equivalent value set by regulations.

(7) No tax shall be levied on any game permitted by this amendment, nor shall any person or organization, by whatever name or composition thereof, take any expense for the operation of a bingo game except as permitted by law.

(b) The town council may provide for the implementation of this amendment by the adoption of any resolution or ordinance as provided heretofore.

(c) The provisions of this amendment are complimentary and supplemental to any amendment heretofore ratified authorizing the operation of bingo games in the Town of White Hall located in Lowndes County.

(d) Any person who violates the regulations provided under the provisions of this amendment shall be guilty of a Class C misdemeanor upon the first conviction under this amendment and any subsequent violation shall be a Class A misdemeanor.

ALA. CONST. amend. 732 (emphasis added).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370 (Ala. 1994); *Tuscaloosa County Comm'n v. Deputy Sheriff's Ass'n of Tuscaloosa County*, 589 So. 2d 687 (Ala. 1991); *Coastal States Gas Transmission Co. v. Alabama Pub. Serv. Comm'n*, 524 So. 2d 357 (Ala. 1988). The term "media bingo" is not defined in any statute or

amendment. The Lowndes County amendment does specifically list "media bingo" as an allowable bingo game, whereas the Jefferson County amendment simply states that the operation of "bingo games" is allowed under certain conditions. Given the plain language of the amendment, "media bingo" would be considered a "bingo game" under the Jefferson County amendment and would be legal in Jefferson County provided that the other conditions of the amendment are met.

There are, however, two concerns that arise from the media bingo proposition you outline. First, both the Jefferson County amendment and the Lowndes County amendment specifically require that the "[b]ingo games shall be operated only on the premises owned or leased by the nonprofit organization operating the bingo game." ALA. CONST. amend. 386; ALA. CONST. amend. 732. A bingo game operated in the Town of White Hall, and transmitted electronically to Jefferson County, would not be a bingo game operated on the premises of the nonprofit organization operating bingo games in either location. Such a game would therefore violate this portion of the Jefferson County amendment, as well as the identical portion of the Lowndes County amendment. Simply put, a bingo game cannot leave the confines of the hall in which it is being played. This interpretation is consistent with a past opinion from this office. *See* Opinion of the Attorney General to Honorable John E. Amari, Member, Alabama State Senate, dated September 19, 1995, A.G. No. 95-00325.

Second, both amendments forbid the nonprofit organization from lending its name or allowing its identity to be used by any other person or entity in the operating or advertising of a bingo game in which the nonprofit organization is not *directly and solely* operating the bingo game. A game operated by the nonprofit organization in the Town of White Hall would violate the requirement in the Jefferson County amendment requiring the nonprofit organization operating the bingo games in Jefferson County to directly and solely operate the games.

This situation is analogous to an earlier opinion of this Office to Honorable Phil Crigler. *See* Opinion of the Attorney General to Honorable Phil Crigler, Member, House of Representatives, dated October 13, 1998, A.G. No. 99-00005. In the *Crigler* opinion, this Office was asked whether several nonprofit organizations could pool their resources under one name to operate a bingo game. This Office opined that this would violate the requirement that a nonprofit organization be solely and directly in control of the game and not lend its name to others.

CONCLUSION

There is nothing preventing nonprofit organizations in the Town of White Hall or Jefferson County from conducting media bingo, provided that the game is kept solely on the premises of the nonprofit organization and is directly and solely operated by the organization. The game may not be broadcast to additional locations. For the proposed media bingo plan to be legal, a statewide constitutional amendment would need to be passed repealing the requirements found in the county-specific amendments limiting the legality of bingo games to those located on the premises of and under the direct and sole control of the nonprofit organization operating the games in each location.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ben Albritton of my staff.

Sincerely,

BILL PRYOR  
Attorney General

By:

A handwritten signature in black ink, reading "Carol Jean Smith". The signature is written in a cursive, flowing style.

CAROL JEAN SMITH  
Chief, Opinions Division